

ORDINANCE NO. 20090806-068

AN ORDINANCE AMENDING CITY CODE CHAPTER 11-1, CHAPTER 25-1, CHAPTER 25-2, AND CHAPTER 25-11 RELATING TO HISTORIC LANDMARK TAX EXEMPTIONS, ZONING, AND ENFORCEMENT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Subsections (B) and (C) of City Code Section 11-1-22 (*Determination Of Exemption Amount*) are amended to read:

- (B) This subsection applies to a property designated as a historic landmark before December 1, 2004 that changed ownership after November 30, 2004, or designated as a historic landmark after November 30, 2004.
- (1) The following percentage of the assessed value of a property designated "H" Historic and approved for tax exemption shall be exempt from ad valorem taxes levied by the city:
- (a) subject to the limitation of Paragraph (2), 100 percent of the assessed value of the historic structure and 50 percent of the assessed value of the portion of the land the chief appraiser for the county appraisal district determines is reasonably necessary for access to and use of the historic structure for:
- (i) an owner-occupied historic residential property that is not fully or partially leased to another person; and
- (ii) a property owned by a nonprofit corporation, as defined in the Texas Nonprofit Corporation Act; and
- (b) 50 percent of the assessed value of the historic structure and 25 percent of the assessed value of the portion of the land the chief appraiser for the county appraisal district determines is reasonably necessary for access to and use of the historic structure for any other historic property, including property used for a commercial purpose.
- (2) The percentage of assessed value exempted [~~An exemption~~] under Subparagraph (1)(a) may not exceed a percentage that would result in a tax equivalent to the greater of \$2,000 or 50 percent of the ad valorem tax that the City would otherwise levy on the property.
- (C) The City shall recommend to the chief appraiser for the county appraisal district that the entire tax parcel on which the historic structure is located, and which is designated "H" Historic, is reasonably necessary for access to

and use of the historic structure, unless otherwise determined by the City Council in a specific case.

PART 2. City Code Section 25-1-46 (*Land Use Commission*) is amended to read as follows:

§ 25-1-46 LAND USE COMMISSION.

- (A) The Planning Commission or the Zoning and Platting Commission may act as the Land Use Commission, as prescribed by this section.
- (B) ~~[Except for an application to designate or modify a historic area (HD) combining district, a]~~ A determination of which commission shall act as the land use commission to consider a particular application is made on the date that the application is filed. After the determination is made, the designated commission continues to act as the land use commission until the application is approved or denied.
- (C) The Zoning and Platting Commission shall act as the Land Use Commission for all applications, except as provided in Subsection (D).
 - ~~[(1) an application to designate or modify a historic area (HD) district; and~~
 - ~~[(2) except as provided in Subsections (B), (D), and (E), all other applications.]~~
- (D) ~~[Except as provided in Subsections (B) and (C), t]~~ The Planning Commission shall act as the land use commission for property that is wholly or partly within:
 - (1) the boundaries of a neighborhood plan that the council has adopted as a component of the comprehensive plan;
 - (2) the former Robert Mueller Municipal Airport site; ~~[øf]~~
 - (3) a transit oriented development (TOD) district; or
 - (4) the boundaries of a proposed neighborhood plan that the Planning Commission is considering as an amendment to the comprehensive plan. In this subsection, Planning Commission consideration of a proposed neighborhood plan:

(a) begins on the effective date of a council resolution or ordinance directing the Planning Commission to consider a neighborhood plan for an identified area; and

(b) ends on the date that the council adopts or rejects the proposed neighborhood plan or withdraws its directive to the Planning Commission to consider a neighborhood plan for the area.

~~{(E) Except as provided in Subsections (B) and (C), the Planning Commission shall act as the land use commission for property that is wholly or partly within the boundaries of a proposed neighborhood plan that the Planning Commission is considering as an amendment to the comprehensive plan. In this subsection, Planning Commission consideration of a proposed neighborhood plan:~~

~~(1) begins on the effective date of a council resolution or ordinance directing the Planning Commission to consider a neighborhood plan for an identified area; and~~

~~(2) ends on the date that the council adopts or rejects the proposed neighborhood plan or withdraws its directive to the Planning Commission to consider a neighborhood plan for the area.]~~

~~(E)~~~~(F)~~ A liaison committee of the Planning Commission and the Zoning and Platting Commission is established. The chair of each commission shall appoint two commission members to serve on the committee. The committee shall meet regularly to exchange information relating to the commissions and make recommendations to the commissions on common policies, objectives, issues, and activities.

PART 3. City Code Section 25-2-242 (*Initiation of Zoning or Rezoning*) is amended to read:

§ 25-2-242 INITIATION OF ZONING OR REZONING.

Zoning or rezoning of property may be initiated by the:

1. Council;
2. Land Use Commission;
3. Record owner;

4. Historic Landmark Commission, if the property is, or is proposed to be, designated as a historic landmark (H) combining district or a historic area (HD) combining district; or
5. For a proposed historic area (HD) combining district, petition of the owners of at least 51[60] percent of the land in the proposed district. Property owned by the City of Austin or other governmental entities shall be fully excluded from the area subject to petition of the owners, except such property may be included in support if it contains structures or features that contribute to the historic character of the district, as determined by the Historic Landmark Commission. The amount of such property to be calculated as supporting shall not exceed 17% of the 51% of the land in the proposed district.

PART 4. City Code Section 25-2-353 (*Application Requirements*) is amended to read:

§ 25-2-353 APPLICATION REQUIREMENTS.

- (A) An application to designate a structure or site as a historic landmark (H) combining district or an area as a historic area (HD) combining district must demonstrate that the structure, site, or area satisfies the criteria for designation and include the information required by administrative rule.
- (B) Prior to action by the Historic Landmark Commission, a preservation plan submitted as part of an application for a combining district shall be forwarded by the Historic Preservation Officer to the Austin Energy Green Builder (or successor) program for review and written recommendations. These recommendations shall address the opportunity to incorporate sustainable elements listed in Subsection 25-2-356(C). The recommendations shall be provided to all boards and commissions and council prior to public hearing and action on the application.
- ~~(B) An application for a historic area (HD) combining district must include:~~
 - ~~(1) an inventory of the principal structures included in the proposed district and an evaluation of whether each structure qualifies as a contributing structure; and~~
 - ~~(2) occupancy and ownership histories of 25 percent or more of the contributing structures at intervals of not less than five years.~~
- ~~(C) An evaluation under Subsection(B)(1) must be made by a person who meets the Secretary of the Interior's professional standards for expertise in "history" or "architectural history" as described in Code of Federal Regulations Title 36, Chapter I, Part 61 (*Procedures For State, Tribal, And Local Government Historic Preservation Programs*).~~

PART 5. City Code Section 25-2-355 (*Historic Landmark Commission Review*) is amended to read:

§ 25-2-355 HISTORIC LANDMARK COMMISSION REVIEW.

- (A) The Historic Landmark Commission shall consider the criteria established in Section 25-2-352 (Historic Designation Criteria) when reviewing an application for a historic landmark (H) or historic area (HD) combining district.
- (B) If the Historic Landmark Commission recommends designation of a historic landmark (H) or historic area (HD) combining district, it shall send a recommendation to the Land Use Commission and the Council that includes:
- (1) a statement of the reasons for recommending designation of the landmark or the district;
 - (2) a legal description of the boundary of the landmark or the district;
 - (3) maps, [~~charts, and~~] photographs, and histories of the structures, sites, or areas located in the district as required by administrative rule;
 - (4) findings that support the criteria for designating the landmark or district and that establish the importance of the landmark or the district; and
 - (5) for a historic area (HD) combining district, a historic area district preservation plan and list of designated contributing structures as described in Section 25-2-356 (Historic Area District Ordinance and Preservation Plan Requirement).
- (C) The affirmative vote of two-thirds [~~three-quarters~~] of the members of the Historic Landmark Commission is required to recommend zoning or rezoning property as a historic landmark (H) combining district if a record [~~notice~~] owner of the property files a written statement protesting the zoning or rezoning.

PART 6. City Code Section 25-2-356 (*Historic Area District Ordinance and Preservation Plan Requirement*) is amended to read:

§ 25-2-356 HISTORIC AREA DISTRICT ORDINANCE AND PRESERVATION PLAN REQUIREMENT.

- (A) An ordinance zoning or rezoning property as a historic area (HD) combining district must:
- (1) describe the character-defining features of the district;

- (2) include a plan to preserve those features; and
 - (3) list the designated contributing structures.
- (B) A preservation plan may:
- (1) modify regulations relating to building setbacks, building height, compatibility, landscaping, parking, or signs; or
 - (2) prescribe regulations relating to design, scale, or architectural character of, or materials for:
 - (a) the exterior of a contributing structure or a new structure; or
 - (b) public facilities, including street lighting, street furniture, signs, landscaping, utility facilities, sidewalks, and streets.
- (C) Consistent with the character-defining features of the district described under Subsection (A)(1), a preservation plan proposed under Subsection (B) may allow and encourage property owners to utilize various external materials and mechanisms to promote sustainability, including but not limited to roofing systems, solar technologies, energy generation and efficiency, water collection and reuse, rain-collection systems and drought-tolerant, native, and edible landscaping and gardens.

PART 7. City Code Section 25-11-2 (*Historic Landmarks*) is amended to read:

§ 25-11-2 HISTORIC LANDMARKS.

- (A) The building official may not issue a building, demolition, or relocation permit unless the requirements of Article 4 (Special Requirements for Historic Structures [~~Landmarks~~]) have been satisfied, if applicable.
- (B) A person may not change, remove, demolish, or alter an exterior architectural feature of a designated historic landmark ~~or~~ a structure for which a designation is pending under Section 25-11-214, or a contributing structure in a local historic district unless the requirements of Article 4 (Special Requirements for Historic Structures [~~Landmarks~~]) have been satisfied.

PART 8. City Code Section 25-11-211 (*Definitions*) is amended to read:

§25-11-211 DEFINITIONS

In this article:

- (1) ALTERATION means any exterior change, demolition, or modification to a historic landmark or to a contributing property located within a historic area (HD) combining district, including, but not limited to:
- (a) exterior changes to or modifications of structures, architectural details, or visual characteristics;
 - (b) construction of new structures;
 - (c) disturbance of archeological sites or areas; or
 - (d) placement or removal of exterior objects that affect the exterior qualities of the property.
- (2) ARCHITECTURAL FEATURE means an architectural element, which alone or as part of a pattern, embodies the style, design, or general arrangement of the exterior of a building or structure, including but not limited to the kind, color, and texture of building materials, and style and type of windows, doors, lights, porches, and signs.
- (3)~~(4)~~ CERTIFICATE means [~~includes~~] a certificate of appropriateness [~~—a certificate of demolition, and a certificate of removal~~] issued by the City approving work on, relocation of, or demolition of a historic structure, historic or archeological site, or a contributing structure within a historic area (HD) combining district.
- (4)~~(2)~~ COMMISSION means the Historic Landmark Commission.
- (5)~~(3)~~ CONTRIBUTING STRUCTURE means a building, structure, site, feature, or object within a designated historic area (HD) combining district which has been designated as a contributing structure by the ordinance creating the district, or within a National Register District.
- (6) DEMOLITION BY NEGLECT means lack of maintenance of any building or structure designated as a historic landmark (H) or any building or structure designated by ordinance as contributing to a historic area (HD) combining district that results in deterioration and threatens the preservation of the structure.
- (7) HISTORIC AREA COMBINING DISTRICT means a district approved by the Council through an ordinance which contains a geographically definable area, possessing particular architectural, cultural, or historic importance or significance. A historic area (HD) combining district must consist, at a minimum, of one block-face.

- (8) ORDINARY REPAIR OR MAINTENANCE means any work that does not constitute an exterior change in design, material, or outward appearance, and includes in-kind replacement or repair with the same original material.
- (9) OWNER OR PROPERTY OWNER means the record owner of a property within an existing or proposed historic landmark (H) or historic area (HD) combining district or an agent of the property owner.

PART 9. Subsections (A) and (B) of City Code Section 25-11-212 (*Certificate Required*) are amended to read as follows:

§ 25-11-212 CERTIFICATE REQUIRED

- (A) Until a person obtains a certificate of appropriateness[~~, demolition, or removal, as applicable,~~] from the Commission [~~commission~~] or the building official, the person may not:
- (1) change, restore, rehabilitate, alter, remove, or demolish an exterior architectural or site feature of a designated historic landmark or a contributing structure, whether or not a building or demolition permit is required, and including but not limited to the replacement of windows, doors, exterior siding materials, installation of shutters or exterior lighting, or the replacement of roof materials; or
 - (2) change, restore, remove or demolish an exterior architectural or site feature of a structure for which a designation is pending under Section 25-11-214 (*Pendency of Designation*).
- (B) Except for a change to the exterior color of a historic landmark, the prohibition of Subsection (A) does not apply if the historic preservation officer determines that a change or restoration:
- (1) is ordinary repair or maintenance that does not involve changes in architectural and historical value, style, or general design;
 - (2) is an accurate restoration or reconstruction of a documented missing historic architectural element of the structure or site, unless a variance or waiver is requested; or
 - (3) does not visually affect the historic character [~~change the appearance~~] of the structure or site from an adjacent public street, and is limited to the construction of:
 - (a) a ground-floor, one-story addition or outbuilding with less than 600 square feet of gross floor area; [~~or~~]

- (b) a second-story rear addition to a two-story building, so long as the addition is not visible from an adjacent public street; or
- (c) a pool, deck, fence, back porch enclosure, or other minor feature.

PART 10. Section 25-11-214 (*Building, Removal, and Demolition Permits in National Register District or Approved Historic Survey*) of the City Code is renumbered as Section 25-11-213 and amended to read:

§ 25-11-213 [~~§ 25-11-214~~ BUILDING, DEMOLITION, AND RELOCATION PERMITS AND CERTIFICATES OF APPROPRIATENESS RELATING TO CERTAIN BUILDINGS, STRUCTURES OR SITES [~~REMOVAL, AND DEMOLITION PERMITS IN NATIONAL REGISTER DISTRICT OR APPROVED HISTORIC SURVEY~~].

- (A) In this section "National Register Historic District" means an area designated in the Federal Register under the National Preservation Act of 1966, as amended, for which maps depicting the area are available for inspection by the public at the Neighborhood Planning and Zoning Department.
- (B) Except as provided in Subsection (C), this [~~This~~] section applies to a building, structure, or site:
 - (1) located in a National Register Historic District; [~~or~~]
 - (2) listed in a professionally prepared survey of historic structures approved by the historic preservation officer;
 - (3) individually listed in the National Register of Historic Places;
 - (4) designated as a Recorded Texas Historic Landmark, a State Archeological Landmark, or a National Historic Landmark;
 - (5) designated as a historic landmark (H) combining district;
 - (6) located within a historic area (HD) combining district; or
 - (7) determined by the historic preservation officer to have potential for designation as a historic landmark.
- (C) This section does not apply to a structure if the historic preservation officer determines that the structure:
 - (1) is less than 50 years old;

- (2) does not meet at least two of the criteria for designation as a historic landmark (H) combining district prescribed by Section 25-2-352(A)(3)(b) (*Historic Designation Criteria*); and
- (3) is not a contributing structure in a historic area (HD) combining district.
- (D) [~~(C)~~] When the building official receives an application requesting a building permit, relocation [~~removal~~] permit, or demolition permit for a structure to which this section applies, the building official shall immediately:
- (1) notify the historic preservation officer [~~post a sign on the site~~]; and
- (2) upon receipt of notification by the historic preservation officer that the application will be placed upon the Commission's agenda, the building official shall post a sign on the site and notify property owners, residents, and registered neighborhood associations in accordance with Section 25-1-133(A) [~~notify the commission~~].
- (E) The historic preservation officer shall complete the review of an application for a demolition, relocation, or building permit within five business days of receipt of a complete application, and determine whether to place the application on the Commission agenda.
- (F) [~~(D)~~] The Commission [~~commission~~] shall hold a public hearing on an application described in Subsection (D) [~~(C)~~] within 45 days of receipt of a complete application [~~as soon as adjacent property owners are notified~~].
- (G) [~~(E)~~] The building official shall [~~may~~] not issue a building permit, relocation [~~removal~~] permit, or demolition permit for a structure to which this section applies until the earlier of:
- (1) the date the Commission [~~commission~~] makes a decision not to initiate a historic zoning designation case [~~recommendation~~] regarding the structure; [~~or~~]
- (2) the date on which the Commission approves an application for a certificate of appropriateness, or makes recommendations on an application for a building permit; or
- (3) [~~(2)~~] the expiration of 75 [45] days after the date of the first Commission meeting at which the application is posted on the agenda [~~the building official first notifies the commission~~].
- (H) If the Commission makes a decision to initiate a historic zoning designation case, a designation becomes pending on the structure under Section 25-11-214.

- (I) The historic preservation officer may approve applications for each of the following:
- (1) Building permits for properties located within a National Register Historic District which are considered minor projects, such as:
 - (a) construction of a one-story ground-floor addition or outbuilding with no more than 600 square feet of gross floor area;
 - (b) construction of a second-story rear addition to a two-story building or structure if the addition is not visible from an adjacent public street; or
 - (c) construction of a pool, deck, fence, back porch enclosure, or other minor feature.
 - (2) Demolition permits for minor outbuildings within a National Register Historic District such as carports, detached garages, sheds, greenhouses, and other outbuildings determined by the historic preservation officer not to possess historical or architectural significance either as a stand-alone building or structure, or as part of a complex of buildings or structures on the site.
 - (3) Demolition or relocation permits for properties deemed non-contributing to the historic character of a National Register Historic District.
- (J) The building official may not release a demolition or relocation permit for a building or structure deemed contributing to a National Register Historic District or a historic area (HD) combining district until the Commission has reviewed and made recommendations on the application for a building permit for the site, unless the building official determines that demolition or relocation is necessary for reasons related to public safety.

PART 11. Subsection (D) of City Code Section 25-11-213 (*Pendency of Designation*) of the City Code is renumbered as Section 25-11-214 and is amended to read as follows:

§ 25-11-214 [~~§ 25-11-213~~] PENDING OF DESIGNATION

- (A) A building, structure, or site is subject to this article if designation as a historic landmark is pending. A permit issued for a building, structure, or site while designation as a historic landmark is pending [~~with respect to the structure, or to a site that includes the structure~~] is void.
- (B) ~~In this section, "commission" includes a committee of the commission.~~ A designation is pending under Subsection (A) on the occurrence of the earliest of the following:

- (1) two [a] members of the Commission [eommission] direct[s] the historic preservation officer in writing to place the building, structure, or site on the Commission's agenda for consideration of whether the building, structure, or site should be designated as a historic landmark [by written order that consideration of whether the structure, or a site that includes the structure, should be designated a historic landmark be placed on the commission's agenda]; or
 - ~~[(2) an item is placed on the commission's agenda for consideration of whether the structure, or a site that includes the structure, should be designated as a historic landmark;]~~
 - (2)[(3)] a Commission [eommission] agenda is posted that includes Commission [eommission] consideration of whether the building, structure, or [a] site [that includes the structure,] should be designated as a historic landmark.
 - (3) a Commission agenda is posted that includes Commission consideration of an application for a demolition, relocation, or building permit concerning the building, structure, or site.
 - ~~[(4) the commission approves or recommends a preservation plan that includes the structure or the site.]~~
- (C) A written order issued by a member of the Commission [eommission] under Section (B)(1) must address:
- (1) whether the structure should be considered for historic zoning.
 - (2) whether the status quo of the structure should be maintained pending historic zoning proceedings; and
 - (3) whether, if the status quo is not maintained pending historic zoning proceedings, the zoning of the structure as historic may become moot.
- (D) A designation is no longer pending if:
- (1) the Commission [eommission] issues a final certificate of appropriateness, or a demolition, relocation, or building permit [removal, or demolition], as applicable;
 - (2) the Commission [eommission] does not make a final decision on whether to recommend [eonsider] designation of the structure as a historic landmark by the 75th [60th] day after the date of the first Commission meeting at which an item is posted on the agenda for action on an application for demolition, relocation, or historic zoning [designation became pending under Subsection (B)];

- (3) the Commission [~~eommission~~] makes a final decision to recommend that the structure not be designated a historic landmark [~~or included within a preservation plan~~]; or
- (4) the council makes a final decision not to designate the structure as a historic landmark [~~or include the structure within a preservation plan~~].
- (E) The historic preservation officer [~~eommission~~] shall provide the building official with a copy of each written order, agenda, or preservation plan described in Subsection (B), as promptly as practicable. The failure to do so does not validate a building permit, relocation [~~removal~~] permit, or demolition permit issued without notice of [~~a~~] the written order or agenda.
- (F) If a permit from the City is not required for the change to a structure, the historic preservation officer [~~eommission~~] must provide notice to the owner of the structure of a written order, or agenda[, ~~or preservation plan~~] that applies to the change.
- (1) Notice under this subsection may be oral or written.
- (2) Notice under this subsection is effective:
- (a) when actually given; or
- (b) when sent by registered or certified mail, return receipt requested, addressed to the record owner.
- (G) An applicant or owner entitled to notice under this section may appeal the Commission [~~eommission~~] action under this section to the council consistent with the requirements of Chapter 25-1, Article 7, Division 1 (*Appeals*).

PART 12. Subsection (A) of City Code Section 25-11-248 (*Changes Prohibited*) is amended to read as follows:

- (A) A change may not be made in the application for a [~~building~~] permit or the approved building plans or materials after Commission review of a National Register District permit or a certificate of appropriateness has been issued, unless the change is approved by [~~submitted to~~] the [~~Historic Landmark~~] Commission and the applicant receives a certificate of appropriateness for the change.

PART 13. City Code Section 25-11-216 is repealed and replaced with a new Section 25-11-216 to read as follows:

§ 25-11-216 DUTY TO PRESERVE AND REPAIR.

- (A) The owner, or other person having legal custody and control of a designated historic landmark or contributing structure in a local historic district or National Register Historic District, shall preserve the historic landmark or contributing structure against decay and deterioration and shall keep it free from any of the following defects:
- (1) Parts which are improperly or inadequately attached so that they may fall and injure persons or property;
 - (2) Deteriorated or inadequate foundation;
 - (3) Defective or deteriorated floor supports or floor supports that are insufficient to carry the loads imposed;
 - (4) Walls, partitions, or other vertical supports that split, lean, list, or buckle due to defect or deterioration or are insufficient to carry the loads imposed;
 - (5) Ceilings, roofs, ceiling or roof supports, or other horizontal members which sag, split, or buckle due to defect or deterioration or are insufficient to support the loads imposed;
 - (6) Fireplaces and chimneys which list, bulge, or settle due to defect or deterioration or are of insufficient size or strength to carry the loads imposed;
 - (7) Deteriorated, crumbling, or loose exterior stucco or mortar, rock, brick, or siding;
 - (8) Broken, missing, or rotted roofing materials or roof components, window glass, sashes, or frames, or exterior doors or door frames; or
 - (9) Any fault, defect, or condition in the structure which renders it structurally unsafe or not properly watertight.
- (B) The owner or other person having legal custody and control of a designated historic landmark or contributing structure in a local historic district or National Register Historic District shall, in keeping with the city's minimum housing standards, repair the landmark or structure if it is found to have any of the defects listed in Subsection (A) of this section.
- (C) The owner or other person having legal custody and control of a designated historic landmark, or a building, object, site, or structure located in a historic

district, or a contributing structure in a local historic district or National Register Historic District, shall keep the property clear of all vermin, weeds, fallen trees or limbs, debris, abandoned vehicles, and all other refuse as specified under the City Code Chapter 9-1 (*Abandoned Property and Vehicles*), and Chapter 10-5 (*Miscellaneous Public Health Regulations*), Articles 2, 3, and 4.

- (D) The owner of a residence with a homestead exemption as defined under state law may apply to the city council for an exemption from the requirements of this section. The city council may grant an exemption on a showing of financial inability to comply with the requirements of this section. An exception under this subsection may be limited in time and may be subject to terms and conditions deemed necessary by the city council.

PART 14. City Code Chapter 25-11 (*Building, Removal, and Demolition Permits in National Historic District or Approved Historic Survey*) is amended to add a new Section 25-11-217 to read:

§ 25-11-217 DEMOLITION BY NEGLECT PROCEDURE.

- (A) The historic preservation officer and the Commission are authorized to work with a property owner to encourage maintenance and stabilization of the structure and identify resources available before taking enforcement action under this section.
- (B) Except as provided in Subsection (C), the following procedures apply to enforcement of this chapter.
- (1) The Commission or the historic preservation officer may initiate an investigation of whether a property is being demolished by neglect.
- (2) Upon initiation of an investigation, the historic preservation officer shall:
- (a) attempt to meet with the property owner to inspect the structure and discuss the resources available for financing any necessary repairs; and
- (b) prepare a report for the Commission on the condition of the structure, the repairs needed to maintain and stabilize the structure, and the amount of time needed to complete the repairs.

- (3) The Commission shall review the historic preservation officer's report and may vote to certify the property as a demolition by neglect case.
 - (4) If the Commission certifies the property as a demolition by neglect case, the historic preservation officer shall take the following actions.
 - (a) Send notice to the property owner or the property owner's agent, by certified mail, describing the required repairs and specifying:
 - (i) that repairs must be started within 60 days; and
 - (ii) a date by which repairs must be completed, as determined by the historic preservation officer.
 - (b) Meet with the property owner within 90 days after the notice is sent, if the historic preservation officer determines that it would be useful to discuss progress in making repairs and consider any issues that may delay completion of repairs.
 - (5) The historic preservation officer may refer a demolition by neglect case to the Building and Standards Commission, the City Attorney, or the appropriate city department for enforcement action to prevent demolition by neglect if the property owner fails to:
 - (a) start repairs by the deadline set in the notice;
 - (b) make continuous progress toward completion; or
 - (c) complete repairs by the deadline set in the notice.
 - (6) The historic preservation officer shall provide notice of a referral under Subsection (B)(5) of this section to the property owner. The owner may appeal the historic preservation officer's referral to the city council.
- (C) If immediate enforcement is necessary to prevent imminent destruction or harm to a designated historic landmark or contributing structure, the historic preservation officer may refer the structure or landmark to the appropriate city department to enforce this chapter and to seek correction of any condition prohibited under Subsection 25-11-216 (*Duty to Preserve and Repair*).

PART 15. City Code Chapter 25-11 (*Building, Removal, and Demolition Permits in National Historic District or Approved Historic Survey*) is amended to add a new Section 25-11-218 to read:

§ 25-11-218 ENFORCEMENT AND PENALTIES.

- (A) A person may not violate a requirement of this article. Pursuant to Section 214.0015 (*Additional Authority Regarding Substandard Buildings*) of the Texas Local Government Code, a person who violates a requirement of this article commits a civil offense, and is civilly liable to the City in an amount not to exceed \$1,000 per day for each violation or an amount not to exceed \$10 per day for each violation if the property is the owner's lawful homestead.
- (B) A person who violates this article commits an offense. An offense under this article is a Class C misdemeanor punishable as provided in Section 1-1-99 (*Offenses; General Penalty*).
- (C) An action to enforce the requirements of this article may include injunctive relief and may be joined with enforcement of applicable City technical codes under Chapter 25-12 (*Technical Codes*).
- (D) If a building, object, site or structure covered by this section is required to be demolished as a public safety hazard and the owner has received two (2) or more notices of violation under Subsection 25-11-217(B), no application for a permit for a project on the property may be considered for a period of three years from the date of demolition of the structure.

PART 16. City Code Chapter 25-11 (*Building, Demolition, and Relocation Permits; Special Requirements for Historic Structures*) is amended to add a new section 25-11-249 to read as follows:

§ 25-11-249 Tolling of Time Limits for Action

For purposes of the time limits for action in Sections 25-11-213, 25-11-214, and 25-11-245, a postponement requested or agreed to by the owner or his agent tolls the running of the time limit from the date of the request until the meeting to which the case has been postponed.

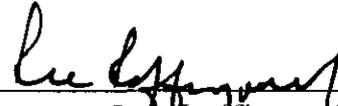
PART 17. City Code Sections 25-11-241 and 25-11-242 are repealed.

PART 18. This ordinance takes effect on August 17, 2009.

PASSED AND APPROVED

_____ August 6 _____, 2009

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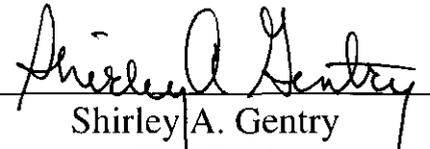
Lee Leffingwell
Mayor

APPROVED:



David Allan Smith
City Attorney

ATTEST:



Shirley A. Gentry
City Clerk